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9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 DAVID SLACK, et al.,
13
14 Plaintiffs,
15 vs.
16 RUSSELL BURNS, et al.,
17 Defendants.

Case No. 3:13-CV-05001-EMC

**STIPULATION AND [PROPOSED]
ORDER EXTENDING TIME FOR
PLAINTIFFS' RESPONSES TO
DEFENDANTS' MOTION FOR
ATTORNEY'S FEES AND BILL OF
COSTS**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 This Stipulation is submitted pursuant to Local Rule 6-2 and is entered into by and between all
3 Plaintiffs and Defendants represented by the undersigned counsel (collectively, the “Parties”) for the
4 purpose of extending the time for Plaintiffs to respond to Defendants’ joint motion for attorney’s fees
5 and bill of costs.

- 6 1. The Court issued an Order on July 20, 2016 (Docket No. 331) granting Defendants’
7 motion for summary judgment and denying Plaintiffs’ motion for summary
8 adjudication as moot.
- 9 2. The Parties filed with the Court a proposed Judgment pursuant to the July 20, 2016
10 Order on July 29, 2016. (Docket No. 334-1.)
- 11 3. The Court entered a final judgment for purposes of Federal Rule of Civil Procedure
12 58(c) on August 1, 2016. (Docket No. 336.)
- 13 4. Plaintiffs filed a notice of appeal of the final judgment on August 29, 2016. (Docket
14 No. 343.)
- 15 5. Pursuant to Local Rules 54-1 and 54-5, a bill of costs and a motion for award of
16 attorney’s fees must be served and filed within 14 days of entry of judgment by the
17 District Court. Pursuant to Local Rule 54-5, parties must meet and confer for the
18 purposes of resolving all disputed issues relating to attorney’s fees before making a
19 motion for award of attorney’s fees.
- 20 6. To accommodate the Parties’ earlier efforts to meet and confer regarding Defendants’
21 anticipated motion for attorney’s fees, the Parties stipulated to extend the time for
22 Defendants to bring an attorney’s fee motion by an additional 7 days. (Docket No.
23 333.) Pursuant to that stipulation, the Court entered an Order that Defendants’ motion
24 for attorney’s fees must be filed and served within 21 days following the entry of final
25 judgment in the action. (Docket No. 335.) With the final judgment in the action
26 having been entered on August 1, 2016 and pursuant to the Court’s Order and Local
27 Rules 54-1 and 54-5, Defendants had until August 15, 2016 to file a bill of costs and
28 until August 22, 2016 to file a motion for attorney’s fees.

- 1 7. The Parties then met and conferred regarding Defendants' attorney's fees motion and
2 bill of costs on August 2, 2016. During discussions, Defendants indicated that they
3 intended to continue to seek the deposition of Ms. Debbie S. Morgan, which they
4 believed was relevant to their attorney's fees motion. Plaintiffs disagreed that
5 Defendants may obtain the deposition of Ms. Morgan or that it was relevant to
6 Defendants' motion. Accordingly, to resolve the issue, the Parties discussed that
7 Defendants would bring an administrative motion on the subject of Ms. Morgan's
8 deposition before this Court.
- 9 8. To accommodate the bringing of an administrative motion in connection with Ms.
10 Morgan's deposition, the time necessary for the court to consider such request, and the
11 potential taking of Ms. Morgan's deposition, the parties stipulated to further extend the
12 time to file and serve an attorney's fees motion and bill of costs to 30 days following an
13 order denying Defendants' motion to take the deposition of Ms. Morgan, or, should
14 such motion be granted, 30 days following the date on which Ms. Morgan's deposition
15 is concluded. (Docket No. 338.) Pursuant to that stipulation, the Court entered an
16 Order extending the time for Defendants to file and serve their motion for attorney's
17 fees and bill of costs to 30 days following an order denying Defendants' motion to take
18 the deposition of Ms. Morgan, or, should such motion be granted, 30 days following
19 the date on which Ms. Morgan's deposition is concluded. (Docket No. 339.)
- 20 9. Defendants filed an administrative motion seeking the deposition of Ms. Morgan on
21 August 15, 2016. (Docket No. 340.) The motion was referred to Magistrate Judge
22 Westmore on August 23, 2016. (Docket No. 342.) Judge Westmore denied the motion
23 on October 7, 2016. (Docket No. 349.)
- 24 10. Defendants thereafter filed their Joint Motion for Attorneys' Fees and Bill of Costs on
25 November 7, 2016, with a hearing set for December 15, 2016 at 1:30 p.m. before this
26 Court. (Docket Nos. 351-352.) Pursuant to Local Rules 7-3 and 54-2, Plaintiffs'
27 responses to the Joint Motion for Attorneys' Fees and Bill of Costs must be served and
28 filed on or before November 21, 2016.

1 11. After Defendants filed their Joint Motion for Attorneys' Fees and Bill of Costs, the
2 Parties engaged in further meet and confer efforts to explore whether the Parties could
3 reach agreement on a resolution of Plaintiffs' appeal and Defendants' Joint Motion for
4 Attorneys' Fees and Bill of Costs. To permit those discussion to continue and conclude
5 and to accommodate holiday schedules of the Parties and counsel, the Parties hereby
6 stipulate to extend the time for Plaintiffs to file and serve a response to Defendants'
7 Joint Motion for Attorneys' Fees and Bill of Costs to January 26, 2017 and that the
8 time for Defendants to file and serve a reply in support of the Joint Motion for
9 Attorneys' Fees is extended to February 16, 2017. The Parties further stipulate that the
10 hearing on Defendants' Joint Motion for Attorneys' Fees be continued from December
11 15, 2016 to March 2, 2017 at 1:30 p.m.

12 12. This Stipulation is not offered for any dilatory or improper purpose, but rather solely to
13 effectively manage the scheduling of case events and to ensure the most efficient use of
14 resources by the Court, the Parties, and their counsel as well as consider Parties'
15 scheduling commitments.

16 13. This Stipulation for the extension of time for Plaintiffs to respond to Defendants' Joint
17 Motion for Attorneys' Fees and Bill of Costs and Defendants' subsequent reply thereto
18 is without prejudice to subsequent stipulations by the Parties or requests by Plaintiffs or
19 Defendants to further extend the time for any filing relating to Defendants' Joint
20 Motion for Attorneys' Fees and Bill of Costs.

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STIPULATION

Pursuant to Local Rules 6-2, 54-2, and 54-5, subject to the Court's approval, Plaintiffs and the Stipulating Defendants, hereby stipulate that:

1. Plaintiffs' time to file and serve responses to Defendants' Joint Motion for Attorneys' Fees and Bill of Costs is extended from Monday November 21, 2016, to January 26, 2017 and the time for Defendants to file and serve a reply in support of the Joint Motion for Attorneys' Fees is extended to February 16, 2017. The Parties further stipulate that the hearing on Defendants' Joint Motion for Attorneys' Fees be continued from December 15, 2016 to March 2, 2017 at 1:30 p.m.

Respectfully submitted,

Dated: November 16, 2016

COX CASTLE & NICHOLSON

By: /s/ Dwayne P. McKenzie

Dwayne P. McKenzie
Monica Briseno
Attorneys for Defendants F.G. Crosthwaite, Rich
Piombo, Thomas Holsman, John Humber and Kevin
Albanese

Dated: November 16, 2016

LAW OFFICE OF KENNETH C. ABSALOM

By: /s/ Kenneth C. Absalom

Kenneth C. Absalom
George R. Nemiroff
Attorneys for Defendants Russell E. Burns, Dan Reding,
and Carl Goff

Dated: November 16, 2016

BERNS WEISS LLP

By: /s/ Lee A. Weiss

Jeffrey K. Berns
Lee A. Weiss
Albert G. Lum

LAW OFFICES OF J. MARK MOORE

J. Mark Moore

Attorneys for Plaintiffs

ECF CERTIFICATION

Pursuant to Local Rule 5-1(i)(3), the filing attorney attests that she has obtained concurrence regarding the filing of this document from the signatories to the document.

DATED: November 16, 2016

COX, CASTLE & NICHOLSON LLP

By: /s/ Dwayne P. McKenzie

Dwayne P. McKenzie

Monica Briseno

Attorneys for Defendants F.G. Crosthwaite, Rich
Piombo, Thomas Holsman, John Humber and Kevin
Albanese

ORDER

Pursuant to the foregoing Stipulation of counsel and for good cause shown, IT IS HEREBY ORDERED that:

1. Plaintiffs' time to file and serve responses to Defendants' Joint Motion for Attorneys' Fees and Bill of Costs is extended from Monday November 21, 2016, to January 26, 2017 and the time for Defendants to file and serve a reply in support of the Joint Motion for Attorneys' Fees is extended to February 16, 2017. The hearing on Defendants' Joint Motion for Attorneys' Fees is continued from December 15, 2016 to March 2, 2017 at 1:30 p.m.

IT IS SO ORDERED.

Dated: 11/17, 2016

